IN THE SPECIFICATION

Please replace paragraph **[0045]** with the following paragraph:

[0045]   The processor 104 processes the audio and determines if the audio data is a foreground audio or a background audio, such as by using the background audio detector 143. The background audio detector 143 may apply a speech detection algorithm or a music detection algorithm to the audio data, in addition to an audio energy measurement. If the audio data does not contain speech or music above a predetermined energy threshold, then the background audio detector 143 determines that the audio data is background audio. The foreground/background audio determination may be performed in any manner, and may be based on a presence of speech or music. One embodiment of background audio detection is discussed in the co-pending patent application serial number [_____] 10/020,256 to the same inventor, and is incorporated herein by reference.

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